

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

|  |   |                             |
|--|---|-----------------------------|
| Jason Talley,                          | ) | C/A No. 2:13-cv-0879 DCN BM |
|  | ) |                             |
| Plaintiff,                             | ) |                             |
|  | ) |                             |
| vs.                                    | ) | <b><u>ORDER</u></b>         |
|  | ) |                             |
| United States of America, and American | ) |                             |
| Security Programs, Inc.,               | ) |                             |
|  | ) |                             |
| Defendants.                            | ) |                             |
|  | ) |                             |

The above referenced case is before this court upon the magistrate judge's recommendation on defendant American Security Programs' motion to dismiss. Plaintiff was advised to submit a proposed Third Amended Complaint, and defendants were given ten (10) days in which to file responses. The magistrate judge recommended that, if the amended complaint was accepted for filing the court, defendant's motion to dismiss should be denied. In the alternative, if the amended complaint was not accepted for filing, defendant's motion to dismiss should be granted.

This court is charged with conducting a de novo review of any portion of the magistrate judge's report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636(b)(1). However, absent prompt objection by a dissatisfied party, it appears that Congress did not intend for the district court to review the factual and legal conclusions of the magistrate judge. Thomas v Arn, 474 U.S. 140 (1985). Additionally, any party who fails to file timely, written objections to the magistrate judge's report pursuant to 28 U.S.C. § 636(b)(1) waives the right to raise those

objections at the appellate court level. United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).<sup>1</sup> **Objections to the Third Amended Complaint were filed on February 24, 2014 by defendant United States of America and on February 27, 2014 by defendant American Security Programs. No responses to these objections were filed by plaintiff.**

**IT IS THEREFORE ORDERED** that the magistrate judge's report and recommendation is **AFFIRMED**. The court **GRANTS** defendant American Security Program's objections to the Third Amended Complaint and strikes the Third Amended Complaint from the record.

**IT IS FURTHER ORDERED** that defendant American Security Programs' motion to dismiss is **GRANTED**.

**AND IT IS SO ORDERED.**



David C. Norton  
United States District Judge

March 21, 2014  
Charleston, South Carolina

**NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure

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<sup>1</sup>In Wright v. Collins, 766 F.2d 841 (4th Cir. 1985), the court held "that a pro se litigant must receive fair notification of the consequences of failure to object to a magistrate judge's report before such a procedural default will result in waiver of the right to appeal. The notice must be 'sufficiently understandable to one in appellant's circumstances fairly to appraise him of what is required.'" Id. at 846. Plaintiff was advised in a clear manner that his objections had to be filed within ten (10) days, and he received notice of the consequences at the appellate level of his failure to object to the magistrate judge's report.